

REAL ESTATE COMMISSION  
Professional and Vocational Licensing Division  
Department of Commerce and Consumer Affairs  
State of Hawaii

**MINUTES OF MEETING**

The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by Section 92-7(b), Hawaii Revised Statutes.

Date: Friday, September 22, 1995

Time: 9:00 a.m.

Place: Kapuaiwa Room  
HRH Princess Victoria Kamamalu Building  
1010 Richards Street, Second Floor  
Honolulu, Hawaii

Present: Barbara Dew, Chair, Oahu Member (Early Departure)  
Charles Aki, Hawaii Member  
Michael Ching, Kauai Member  
Alvin Imamura, Maui Member  
Carol Mon Lee, Public Member  
Helen Lindemann, Oahu Member  
Nora Nomura, Public Member

Calvin Kimura, Supervising Executive Officer  
Christine Rutkowski, Executive Officer  
Lee Ann Teshima, Real Estate Specialist  
Russell Wong, Real Estate Specialist  
Shari Wong, Deputy Attorney General (Late arrival)  
Irene Kotaka, Secretary

Jan Yamane, Program Specialist  
Sheryl Nagata, Hearings Officer  
Sherrie Seki, Attorney, RICO  
Steven Gilbert, Hawaii Real Estate Research and Education Center  
John Reilly, Real Estate Continuing Education Co.  
Nicki Thompson, Hawaii Association of Realtors  
Ward Fujimoto, Attorney for Libbie and Co., Inc.  
Alan H. Tuhy, Attorney for Christopher Singleton and Cay Singleton  
John Y. Yamano, Attorney for Libbie Kamisugi  
Barbara Fleming, Applicant  
David Hardy, Applicant

Excused: Stanley Kuriyama, Vice Chair, Oahu Member  
Theo Butuyan, Public Member

Call to Order: The Chair called the meeting to order at 9:07 a.m., at which time quorum was established.

Executive Officer's  
Report:

**Announcements, Introductions, Correspondence and Additional Distributions**

The following materials were distributed to the Commissioners prior to the start of the meeting:

4. Chapter 91, Hawaii Revised Statutes, Adjudicatory Matters
  - a. Christopher B. Singleton and Cay Singleton, REC 91-447-L, Ex Parte Motion to Strike Respondents Christopher Singleton and Cay Singleton's Statement in Partial Support of Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order Filed on July 25, 1995; Memorandum in Support of Ex Parte Motion; Affidavit of Counsel; Exhibits "I" Through "7"; Order Granting Ex Parte Motion to Strike Respondents Christopher B. Singleton and Cay Singleton's Statement in Partial Support of Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order Filed on July 25, 1995; Certificate of Service  
  
September 21, 1995 Letter from Alan H. Tuhy, Esq.
  - e. Letter, dated September 19, 1995 from M. Libbie Kamisugi
6. Committee Reports  
  
Laws and Rules Review Committee
9. Licensing - Questionable Applications
  - a. Matt B. Buckman
  - b. John F. Kennaday
  - c. David W. Hardy

**Minutes of Previous Meetings**

No minutes were circulated for approval.

Chair's Report:

**Commissioner's Workshop**

The Commissioner's Workshop, which was scheduled for this afternoon has been rescheduled to October 26, 1995, from 1:00 p.m. to 4:00 p.m.

Committee Reports:

**Condominium Review Committee**

Upon a motion by Commissioner Lee, seconded by Commissioner Nomura, it was voted on and unanimously carried to accept the report of the September 13, 1995 Condominium Review Committee meeting, as follows:

1. Minutes of August 9, 1995 Meeting: **Recommend acceptance.**

2. Chair's Report - Chair Barbara Dew reminded everyone that the luncheon for Dr. Nicholas Ordway is limited to fifty persons; there are approximately six seats available. Attempts were made to hold the luncheon at another site better able to accommodate more people, but no alternative site was available. Deadline for reserving a seat is September 15, 1995.
3. Condominium Specialist's Report - Commissioner Michael Ching is excused from today's meeting.
4. Hawaii Real Estate Research and Education Center Report
  - a) Hawaii Condominium Bulletin, Summer 1995 - Distributed to Commissioners at the meeting.
  - b) Condominium Board of Directors Guide, Insurance Relating to Condominiums - HREREC staff member participated in a focus group convened by the Office of State Planning on the topic of the current insurance crisis in Hawaii.
  - c) Condominium Survey - HREREC is utilizing survey question sheet to be circulated at the CAI neighborhood seminars. Information gleaned from the results of this survey will be used to validate/invalidate information collected from the earlier telephone survey findings.
  - d) Condominium Seminars - First neighborhood seminar held on September 13, 1995 in Waipahu. Four persons were in attendance from the condominium community.
5. Condominium Governance and Management
  - a) Informational flyer on CAI/HREREC joint neighborhood seminars provided to Commissioners.
  - b) Informational flyer for upcoming CAI seminar entitled "A Basic Course for Association Leaders" to be held on September 23, 1995 at the Japanese Cultural Center was provided to the Commissioners.
  - c) Open Forum - Mr. Wright Hiatt asked for information on the Residential Ground Rental Act of 1995 which is presently making its way through Congress. Mr. Hiatt was provided a copy of a letter from Senator Inouye to Governor Cayetano regarding this bill.
6. Condominium Project Registration, Public Reports and Sales to Owner-Occupants
  - a) **Recommend approval** to ratify issuance of effective dates during August, 1995.
7. Program of Work
  - a) Condominium Association Registration - Specialist Okumura reported that 1080 condominium associations are registered for the year 1995.
  - b) 1995 Legislative Acts and Resolutions - Chapter 514A, HRS, complete with 1995 amendments was provided to the Commissioners. Mr. Wright Hiatt asked about the status of the Recodification Plan. It was reported to him that the Real Estate Commission is to provide the legislature with a plan for recodifying Chapter 514A, HRS, by December, 1995.
  - c) Condominium Specialists Office for the Day, August 16, 1995, Lihue, Kaua'i - Specialist Okumura reported a small turn out for this visit; three persons made appointments, however only one person showed up to meet with Specialist Okumura.

- d) Condominium Reference Library - Specialist Okumura showed the Commissioners a guide for board of directors written by Richard Thomason of the law firm Wagner, Watson and Petit.
8. Next meeting: Wednesday, October 4, 1995  
2:30 p.m.  
Queen's 5 Room  
Hilton Waikoloa Village Hotel  
69-425 Waikoloa Beach Drive  
Waikoloa, Hawaii

The Deputy Attorney General arrived.

### **Laws and Rules Review Committee**

Upon a motion by Commissioner Nomura, seconded by Commissioner Lee, it was voted on and unanimously carried to accept the report of the September 13, 1995 Laws and Rules Review Committee meeting, as follows:

1. HREREC Report
  - a) PB and BIC Brochure: working on the third draft to be submitted on September 21, 1995.
  - b) Professional Responsibility Course: course and all materials to be submitted on October 12, 1995.
  - c) Advertising Brochure: final draft has been submitted, **Recommend approval** subject to staff's review and resolution of broker corporation's use of the "B" and "R" prior to finalization; committee members to provide written comments to staff by September 19, 1995.
  - d) Laws and Rules Manual: distributed at meeting; distribution to subscribers to be done during September, 1995. HREREC requested to submit subscription statistics to the Commission.
2. Program of Work
  - a) Rule Making, Chapter 99: Continued exchange on Draft B-1 and written recommendations, to be continued at future LRRC meetings.
  - b) Licensing, Registration, and Certification Administration:
    - 1) Policy: **Recommend approval** that all application fees be deposited immediately upon receipt; staff to provide written policy at 9/22/95 meeting.
    - 2) State Tax Clearance Issue: **Recommend** that staff, in working with Licensing Administrator, provide all necessary information as to implementation including foreseeable delays with processing of new applications/renewal applications.
  - c) Neighbor Island Outreach - October 4, 1995 LRRC Meeting, 1:00 p.m., Queen's 5 Room, Hilton Waikoloa Village Hotel, Hawaii.
  - d) Commissioners Education Program - Workshop - 1:00 p.m., September 22, 1995
3. ARELLO and Other Organizations: **Recommend** that due to fiscal austerity and budget constraints, the Real Estate Commission decline participation at the October 26, 1995 Appraisal Subcommittee, Federal Financial Institutions Examination Council, State Appraiser Regulator's Conference in Washington

- D.C.
4. Next Meeting: Wednesday, October 4, 1995  
1:00 p.m.  
Queen's 5 Room, Hilton Waikoloa Village Hotel  
Waikoloa, Hawaii

Also submitted and accepted as part of the Laws and Rules Review Committee Report was the proposed language for the fees policy {Item 2.b)1) above}, as follows:

"Your fee payment will be deposited immediately upon receipt. The depositing of the payment is not to be considered an approval of the license, registration or certification. If, for any reason, the application is not approved or the processing of the application is terminated, any refunds due will be processed. Refunds take approximately six to eight weeks to process. Application fees are non-refundable.

#### **Education Review Committee**

Upon a motion by Commissioner Imamura, seconded by Commissioner Aki, it was voted on and unanimously carried to accept the report of the September 13, 1995 Education Review Committee, as follows:

1. Chair's Report - None.
2. Announcements, Introduction, Correspondence, and Additional Distribution - Minutes of August 9, 1995 meeting - **Recommend approval** of minutes.
3. Hawaii Real Estate Research and Education Center Report
  - a. Continuing Education Core Course - Pending receipt of final course materials from Dr. Ordway. At the Real Estate Commission meeting on August 25, 1995, Commission and Staff received the first draft of the course. On August 28, 1995, Staff's comments were transmitted back to Dr. Ordway. On September 12, 1995, Staff met with Dr. Ordway and received revisions for review with the balance of course materials to be delivered September 13, 1995.
4. Continuing Education Administration, Curriculum, Courses, Providers, and Instructors
  - a. Administrative Issues - Elective Course Review - **Recommend** that review of continuing education elective course(s) comply with §16-99-100(a).
  - b. Applications
    - 1) **Recommend approval** of the following:  
Provider - Leeward Community College reregistration.  
Instructor - Eddie Flores, Jr., recertification for "Fair Housing".  
Courses - Duplanty School of Real Estate recertification for "Condominiums: Laws & Issues", "Pitfalls in Residential Listings", "Understanding Agency Disclosure", "Comprehensive 1031 Exchange" and "Financing Residential Properties".  
Instructor - Elizabeth L. Dower, certification for "Residential Property Management: Laws & Rules".



Upon a motion by Commissioner Ching, seconded by Commissioner Lee, it was voted on and unanimously carried to accept the Hearings Officer's Findings of Fact, Conclusions of Law, and Recommended Order on the Motion for Further Disciplinary Action Against Real Estate Salesperson's License.

**Kokua For Travel Agents, Inc., REC-LIC-94-3**

This matter was deferred to a later meeting.

Following the Commission's review, deliberation and decisions in these matters, pursuant to Chapter 91, HRS, the Chair announced that the Commission was reconvening its scheduled meeting at 10:50 a.m., pursuant to Chapter 92, HRS.

Recess: The Chair recessed the meeting at 10:50 a.m.

Reconvene: The Chair reconvened the meeting at 11 a.m.

Executive Session: Commissioner Ching moved to enter into executive session pursuant to Section 92-5(b)(1), "To consider and evaluate personal information relating to individuals applying for professional or vocational licenses cited in section 26-9 or both;" Commissioner Lindemann seconded the motion.

Commissioners Ching and Lindemann withdrew their motion and second prior to voting on this matter.

Licensing: **Questionable Applications**

Barbara M. Fleming

Barbara M. Fleming was present to answer any questions the Commissioners may have regarding her request for an equivalency to ten written transactions, three of which are listings closed escrow and three sales closed escrow (three closed listings and three closed sales).

Ms. Fleming was asked to describe her experience as a Texas real estate broker. Ms. Fleming stated that after getting her Texas real estate salesperson's license in the late 1970's, she and an attorney formed a real estate corporation. Two years later, she obtained her real estate broker's license and bought him out. She ran her company, National Realty Service, until two to three years ago. She stated that the company had 6 to 18 employees at times. She handled repossessions. She also stated that she did most of the commercial work there. She did site locations for Formosa Plastics, a Taiwanese-based company, which involved master leases and sites. She has sold farm and ranch lands. The majority of her experience she received is from owning her own company. She stated that she has had residential listings in Hawaii, however, none of them have sold.

Upon a motion by Commissioner Lee, seconded by Commissioner Ching, it was voted on and unanimously carried to take this matter under advisement.

David W. Hardy

David W. Hardy was present to request an equivalency to nine months full-time real estate salesperson experience in Hawaii and ten written transactions, three of which are listings closed escrow and three sales closed escrow (three closed sales).

Mr. Hardy distributed copies of his written testimony to the Commissioners for their information. Mr. Hardy stated that he has not been able to certify his active periods because he was having difficulties in obtaining the certification from three of his previous principal brokers. He has since obtained the certification of one of the principal brokers. However, since the company has gone out of business, he is still unable to locate two of his previous principal brokers.

Mr. Hardy stated that he has been involved in time share sales. He stated that he was involved in outside public contacts. The majority of his sales transactions are in the resale area. Mr. Hardy stated that time share resale companies do not cooperate with any other brokerage company. When a seller lists a time share property with them, the buyer understands that the seller is paying a commission and that since there is no other broker representing the buyer, the agent is representing both parties. When asked if the dual representation is disclosed in the contract, Mr. Hardy stated that it was. However, five years ago, disclosure was not required.

Upon a motion by Commissioner Ching, seconded by Commissioner Nomura, it was voted on and unanimously carried to take this matter under advisement.

Executive Session:

Upon a motion by Commissioner Lee, seconded by Commissioner Nomura, it was voted on and unanimously carried to enter into executive session, pursuant to Section 92-5(b)(1), "To consider and evaluate personal information relating to individuals applying for professional or vocational licenses cited in section 26-9 or both;"

Upon a motion by Commissioner Lee, seconded by Commissioner Nomura, it was voted on and unanimously carried to move out of executive session.

Licensing:

**Restoration of Forfeited License**

Roger G. L. Chang  
Emerito C. Saniatan

Salesperson  
Salesperson

After a review of the information submitted by the applicants, Commissioner Lee moved that restoration be approved upon submitting evidence of successfully passing the real estate salesperson's licensing examination. Commissioner Lindemann seconded the motion. The motion was voted on and unanimously carried.

**Questionable Applications**

Matt B. Buckman

After a review of the information submitted by the applicant, Commissioner Aki moved that this matter be deferred to the October 26, 1995 Real Estate Commission meeting, at which time Mr. Buckman is directed to appear and to provide specific court documents related to the crime he describes in documents submitted with his application. Commissioner Imamura seconded the motion. The motion was voted on and unanimously carried.

Kala Alexander

After a review of the information submitted by the applicant, Commissioner Nomura moved to deny Kala Alexander's application for a real estate salesperson's license, based on Sections 467-8(3), 436B-19(1),(8),(12) and (14), HRS. The Commission determined that the criminal convictions of assault and attempted extortion are related to the qualifications, functions and duties of the license profession, and that the nature of real estate activity is such that real estate licensees frequently have access to persons' residences, personal and private information, and are frequently alone with clients and members of the general public. Further, the Commission determined that the applicant has not provided sufficient evidence of rehabilitation to warrant the public trust, as provided for in Section 831-3.1, HRS. Commissioner Lee seconded the motion. The motion was voted on and carried. Commissioner Ching abstained from voting.

Ira E. Daugherty

After a review of the information submitted by the applicant, Commissioner Lindemann moved to deny Ira E. Daugherty's application for a real estate salesperson's license, based on Sections 467-8(3), 436B-19(1), (8), (12), and (14), HRS. The Commission determined that the criminal conviction of burglary is directly related to the qualifications, functions and duties of the license profession, and that the nature of real estate activity is such that real estate licensees frequently have access to persons' residences, personal and private information, and are frequently alone with clients and members of the general public. Further, the Commission determined that the applicant has not provided sufficient evidence of rehabilitation to warrant the public trust, as provided for in Section 831-3.1, HRS. Commissioner Nomura seconded the motion. The motion was voted on and unanimously carried.

John F. Kennaday

After a review of the information submitted by the applicant, Commissioner Aki moved to approve John F. Kennaday's application for a real estate salesperson's license. Commissioner Imamura seconded the motion. The motion was voted on and unanimously carried.

Ira Philip Greenspon

After a review of the information submitted by the applicant, Commissioner Ching moved to deny Ira Philip Greenspon's application for a real estate salesperson's license, based on Sections 467-8(3), 436B-19(1), (8), (12), and (14), HRS. The Commission determined that the criminal convictions of conspiracy and mail fraud are directly related to the qualifications, functions, and duties of the license profession, and that the nature of real estate activity is such that the real estate licensees frequently have access to persons' residences, personal and private information, and are frequently alone with clients and members of the general public. Further, the Commission determined that the applicant has not provided sufficient evidence of rehabilitation to warrant the public trust, as provided for in Section 831-3.1, HRS. Commissioner Nomura seconded the motion. The motion was voted on and unanimously carried.

Jules S. Rickless

After a review of the information submitted by the applicant, Commissioner Lee moved to approve the real estate salesperson's license application of Jules S. Rickless. Commissioner Nomura seconded the motion. The motion was voted on and unanimously carried.

Kenneth R. Svejkovsky

After a review of the information submitted by the applicant, Commissioner Lee moved to approve the real estate salesperson's license application of Kenneth R. Svejkovsky. Commissioner Nomura seconded the motion. The motion was voted on and unanimously carried.

Edward R. Johnson

After a review of the information submitted by the applicant, Commissioner Lindemann moved to deny the real estate salesperson's license application of Edward R. Johnson, based on Sections 467-8(3) and 436B-19(1), (8), and (12), HRS. Commissioner Nomura seconded the motion. The motion was voted on and unanimously carried.

David W. Hardy

After a review of the information presented by the applicant, Commissioner Ching moved to deny David W. Hardy's request for an equivalency to nine months full-time salesperson experience in Hawaii and the ten written transactions, three of which are sales closed escrow and three are listings closed escrow (three sales closed escrow). Commissioner Imamura seconded the motion. The motion was voted on and unanimously carried.

Barbara M. Fleming

After a review of the information presented by the applicant, Commissioner Lee moved to approve Barbara M. Fleming's request for an equivalency to ten written transactions, three of which are sales closed escrow and three are listings closed escrow (three closed sales and three closed escrow). Commissioner Nomura seconded the motion. The motion was voted on and unanimously carried.

Licensing and  
Registration:

**Ratification**

Upon a motion by Commissioner Aki, seconded by Commissioner Imamura, it was voted on and unanimously carried to ratify the following:

Brokers

Leland Cheong  
Chandler Realty, Inc. dba Maui Condominium Specialists  
Dexter W. Lum  
Sharman A. Noguchi

Branch Office

The Bay Club Ownership Resorts, Inc. (900 Front Street, Suite J-20,  
Lahaina, HI)

Trade Name

Clifford Y. K. Yoshida, Sr. (fka Clifford Y. K. Yoshida dba Leeward Realty  
Co.)  
Jusdoit, Inc. dba JDI Real Estate Investments  
Marriott Kauai Ownership Resorts, Inc. dba Marriott Vacation Club  
International

Site Office

Pahio Vacation Ownership, Inc. - Pahio at Ka'Eo Kai  
Pahio Vacation Ownership, Inc. - Pahio at Shearwater  
Pahio Vacation Ownership, Inc. - Pahio at Kauai Beach Villas  
Wailea Realty Corporation - Wailea Pualani Estates  
Coldwell Banker McCormack Real Estate - The Palms at Wailea - Phase II  
Maryl Development, Inc. - Sandalwood at Waimea  
Marcus & Associates, Inc. - Iwalani - Village 5 of the Villages of Kapolei  
SHC - Properties, Inc. - Executive Centre  
C. Brewer Homes, Inc. - Kaimana at Kehalani (C-4)

Schuler Realty/Oahu, Inc. - Highlands at Waikele  
Finance Realty, Ltd. - Palehua Pointe  
Schuler Realty/Oahu, Inc. - Country Club Village Buildings 1, 2 & 3/Country  
Club Village Phase 2, Building 4  
Schuler Realty/Maui, Inc. - Iao Parkside  
Watt Hawaii Realty, Inc. - A'eloia Villages of Kapolei  
Maui Pacific Realty Partners, Inc. dba Kahana Ridge Realty - Kahana Ridge  
Herbert K. Horita Realty, Inc. - Royal Kunia Phase I - Site 12  
C. Brewer Homes, Inc. - Halelani at the Villages of Leialii - Phase 1A  
Clark Realty Corporation - Kaulana at Kona

Condominium Managing Agent  
Hawaii Equities, Inc.

Upon a motion by Commissioner Ching, seconded by Commissioner Aki, it was voted on and unanimously carried to ratify the trade name of James H. Wodehouse, Jr. dba 7-11 Realty, effective August 15, 1995. With the action taken by the Commission as to REC 93-171-L and the implementation of the July 28, 1995 Settlement Agreement, the trade name will not be effective as of 9/22/95.

The Chair recused herself from the issues: Marion Libbie Kamisugi's Supplemental Memorandum in Support of Motion for Reconsideration and Request for Oral Argument, Motion for Request for Reconsideration and Request for Oral Argument, REC 92-60-L and Respondent Libbie & Company, Inc.'s Joinder in Marion Libbie Kamisugi's Supplemental Memorandum in Support of Motion for Reconsideration and Request for Oral Argument Filed 08/16/95, Respondent Libbie & Company, Inc.'s Joinder in Respondent Marion Libbie Kamisugi's Motion for Reconsideration and Request for Oral Argument Filed 03/14/95, REC 92-60-L; and appointed Commissioner Lee Chair Pro Tem for the remainder of the meeting. Chair Dew was excused from the meeting.

Executive Session: Upon a motion by Commissioner Aki, seconded by Commissioner Imamura, it was voted on and unanimously carried to enter into executive session, pursuant to Section 92-5(b)(4), "To consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities;"

Upon a motion by Commissioner Aki, seconded by Commissioner Ching, it was voted on and unanimously carried to move out of executive session.

Adjudicatory Matters: The Chair Pro Tem called for a recess from the meeting at 11:55 a.m., to discuss and deliberate on the following adjudicatory matters, pursuant to Chapter 91, HRS:

**Marion Libbie Kamisugi's Supplemental Memorandum in Support of Motion for Reconsideration and Request for Oral Argument, Motion for Request for Reconsideration and Request for Oral Argument, REC 92-60-L**

Upon a motion by Commissioner Nomura, seconded by Commissioner Imamura, it was voted on and unanimously carried to vacate the motion made at the March 24, 1995 Real Estate Commission meeting, which denied Marion Libbie Kamisugi's request for reconsideration and to deny any other requests for consideration by the Commission based on the Settlement Agreement.

Upon a motion by Commissioner Nomura, seconded by Commissioner Imamura, it was

voted on and unanimously carried to deny the request for reconsideration. The January 28, 1994 Order is the Commission's Final Order.

**Respondent Libbie & Company, Inc.'s Joinder in Marion Libbie Kamisugi's Supplemental Memorandum in Support of Motion for Reconsideration and Request for Oral Argument Filed 08/16/95, Respondent Libbie & Company, Inc.'s Joinder in Respondent Marion Libbie Kamisugi's Motion for Reconsideration and Request for Oral Argument Filed 03/14/95, REC 92-60-L**

Upon a motion by Commissioner Nomura, seconded by Commissioner Imamura, it was voted on and unanimously carried to deny the request for reconsideration. The January 28, 1994 Order is the Commission's Final Order.

Following the Commission's review, deliberation and decisions in these matters, pursuant to Chapter 91, HRS, the Chair Pro Tem announced that the Commission was reconvening its scheduled meeting at 12:25 p.m., pursuant to Chapter 92, HRS.

Next Meeting:

Thursday, October 26, 1995  
9:00 a.m.  
Kapuaiwa Room  
HRH Princess Victoria Kamamalu Building  
1010 Richards Street, Second Floor  
Honolulu, Hawaii

Adjournment:

With no further business to discuss, the Chair Pro Tem adjourned the meeting at 12:35 p.m.

Respectfully submitted by:

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Christine Rutkowski, Executive Officer

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Date